

2020 NATIONWIDE PERMITS: OVERVIEW OF PROPOSED RULE

For the Association of State Wetland Managers
U.S. Army Corps of Engineers
September 16, 2020

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TOPICS

- What are the Nationwide Permits?
- Summary of the proposed rule published on September 15, 2020
- Next steps
- What's in the 2020 Nationwide Permit proposed rule?
 - What changes are being proposed?
- Associated processes



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NATIONWIDE PERMIT BACKGROUND

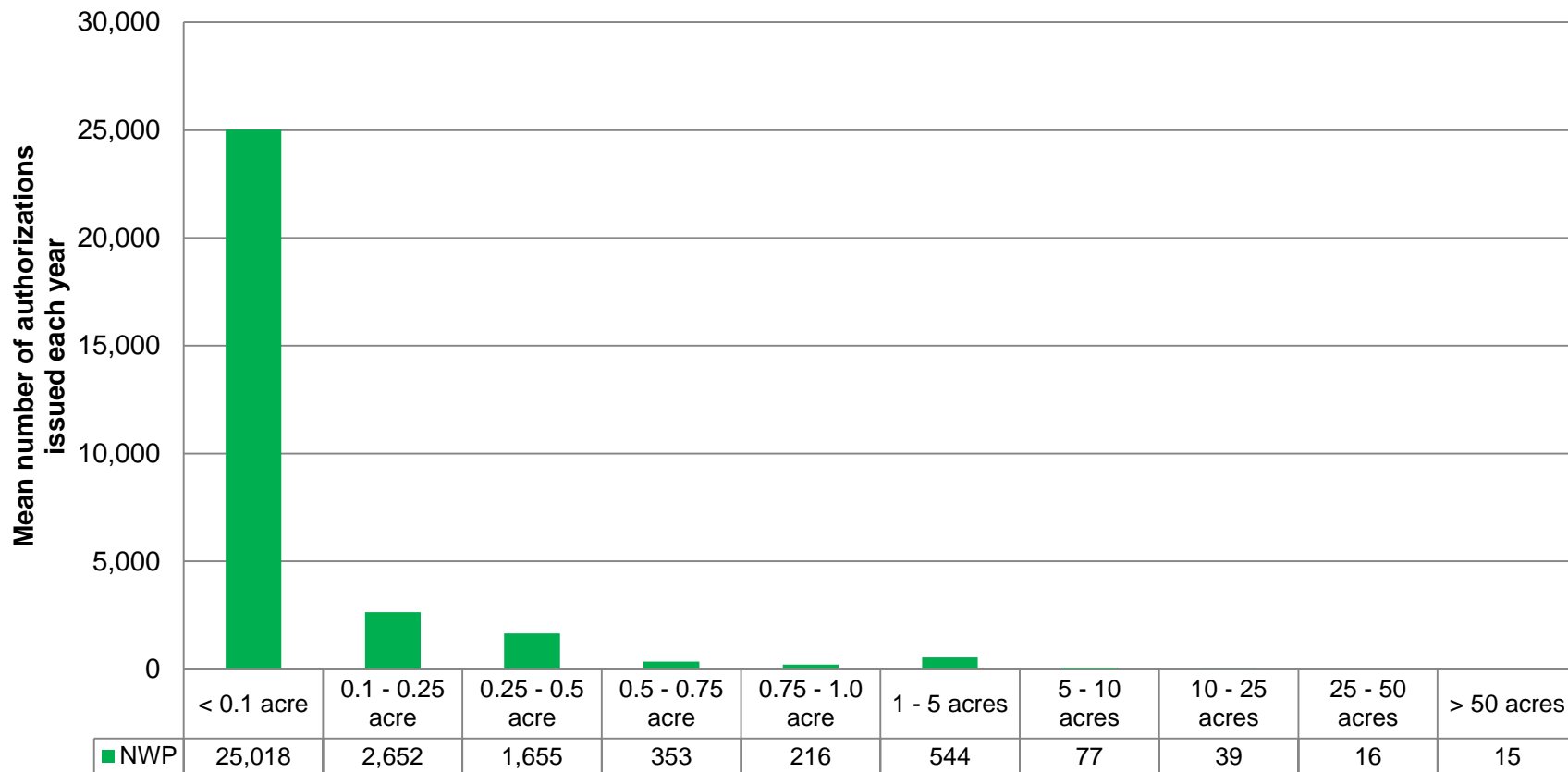
- General permits issued by Corps Headquarters to authorize activities across the country
 - Categories of activities with no more than minimal individual and cumulative adverse environmental effects
 - Reissuance process every 5 years
 - Rulemaking activity, with interagency review under EO 12866
- Authorize ~35,000 activities per year (reported) plus ~30,000 non-reporting activities
- Current nationwide permits issued on December 21, 2016
 - 52 nationwide permits
 - 32 general conditions
 - Effective on March 19, 2017
 - Currently scheduled to expire on March 18, 2022



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NATIONWIDE PERMITS INCENTIVIZE REDUCTION OF IMPACTS TO JURISDICTIONAL WATERS AND WETLANDS



Authorized impacts to jurisdictional waters and wetlands, including rivers and streams, in acreage range categories, by nationwide permit (NWP) during FY 2018.



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SUMMARY OF SEPTEMBER 15, 2020 PROPOSED RULE



FEDERAL REGISTER

Vol. 85 Title 34
No. 178 September 15, 2020

Part II

Department of Defense
Department of the Army, Corps of Engineers
30 CFR Chapter I
Department of the Army, Corps of Engineers, Waterways Regulation

- Invite comment on a number of Administration initiatives
- Reissue all 52 existing NWP
- Issue five new NWPs
- Reissue all NWP general conditions
 - With some modifications
 - No new general conditions
- Comment period begins: September 15, 2020
- Comment period ends: November 16, 2020



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SUMMARY OF 2020 PROPOSED RULE

- **Nationwide permits**
 - Reissue 20 NWP's with changes
 - Reissue 32 NWP's with no changes
 - Issue 5 new NWP's
- **General conditions**
 - Reissue 11 general conditions with changes
 - Reissue 21 general conditions without changes
- **Definitions**
 - Remove 3 definitions
 - Modify 3 definitions
 - (no new definitions are proposed)



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PRE-CONSTRUCTION NOTIFICATION REQUIREMENTS

- 20 NWPs – no pre-construction notification (PCN) required
- 14 NWPs – some activities require PCN
- 23 NWPs – all activities require PCN
- For any NWP, PCN is required for:
 - Activities that might affect ESA-listed species or designated critical habitat
 - Activities that might have the potential to cause effects to historic properties



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PRE-CONSTRUCTION NOTIFICATIONS

- Opportunity for district to review proposed NWP activity to determine eligibility for authorization
 - Will the proposed activity result in only minimal adverse environmental effects?
 - Does proposed activity comply with all applicable general and regional conditions?
 - Is compensatory mitigation or other mitigation required to ensure no more than minimal adverse environmental effects?
 - Are any consultations required?
 - Endangered Species Act Section 7
 - National Historic Preservation Act Section 106
 - Essential Fish Habitat provisions of the Magnuson-Stevens Fishery Conservation and Management Act



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OBJECTIVES OF THE PROPOSED CHANGES

- Under E.O. 13783, reduce regulatory burdens on the production, distribution and use of energy, while maintaining environmental incentives and protections provided by the NWP's
- Seek comment on ways to reduce duplication with federal agencies that use the NWP's
 - Federal agencies share similar responsibilities for environmental review of their projects
- Simplify the terms and conditions of the NWP's so that they can be implemented more consistently, with lower costs, and with no decline in environmental protection
 - Benefits to the regulated public, the Corps, and other agencies
 - The NWP's will continue to provide incentives to minimize impacts to aquatic resources, to qualify for a streamlined permit process



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EXECUTIVE ORDER 13783

- *Promoting Energy Independence and Economic Growth*
- Requires agencies to consider modifying existing regulations that potentially burden the development and use of domestically produced energy resources, such as oil, natural gas, coal, and nuclear energy
- Army issued a report identifying 9 nationwide permits that could be modified to reduce burdens on energy producers
- Notice of availability for this report published in *Federal Register* on November 28, 2017



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EXECUTIVE ORDER 13783

The nine nationwide permits identified in the EO 13783 report for proposed changes:

- NWP 3, Maintenance
- NWP 12, Utility Line Activities
- NWP 17, Hydropower Projects
- NWP 21, Surface Coal Mining Activities
- NWP 39, Commercial and Institutional Developments
- NWP 49, Coal Remining Activities
- NWP 50, Underground Coal Mining Activities
- NWP 51, Land-Based Renewable Energy Generation Projects
- NWP 52, Water-Based Renewable Energy Generation Pilot Projects



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PROPOSE REMOVAL OF 300 LINEAR FOOT LIMIT FOR LOSSES OF STREAM BED

- NWP 21 – surface coal mining activities
- NWP 29 – residential developments
- NWP 39 – commercial and institutional developments
- NWP 40 – agricultural activities
- NWP 42 – recreational facilities
- NWP 43 – storm water management activities
- NWP 44 – mining activities
- NWP 50 – underground coal mining activities
- NWP 51 – land-based renewable energy generation facilities
- NWP 52 – water-based renewable energy pilot projects



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PROPOSE REMOVAL OF 300 LINEAR FOOT LIMIT FOR LOSSES OF STREAM BED

- Rely on other tools to comply with “no more than minimal adverse environmental effects” requirement
 - Discussed on next slide
- More accurate quantification of losses of stream bed
 - Streams within watersheds vary substantially in size
 - More defensible determinations of “no more than minimal impacts”
- Reduced costs for permittees and the Corps
 - Remove delays due to agency coordination of waiver requests
 - Increase availability of NWPs to authorize small losses of stream bed, instead of requiring Individual Permits for these activities
- Consistent limits for all categories of non-tidal waters
- Consistency with 404(b)(1) Guidelines, which provide greater protection for special aquatic sites (e.g., wetlands)
- Propose to establish compensatory mitigation requirement for losses of greater than 1/10-acre of stream bed, consistent with current wetland compensatory mitigation requirement



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TOOLS TO ENSURE “NO MORE THAN MINIMAL ADVERSE ENVIRONMENTAL EFFECTS”

- 1/2-acre limit for losses of non-tidal waters of the United States
 - Applies to all of these NWP's
- Pre-construction notification required for all activities authorized by the 10 NWP's that currently have the 300 linear foot limit
 - Exception is NWP 51, which has 1/10-acre PCN threshold
- Authority of division engineers to impose regional permit conditions to restrict use of NWP's to address regional aquatic resource concerns
- Authority of district engineers to add activity-specific permit conditions to address project-specific aquatic resource concerns



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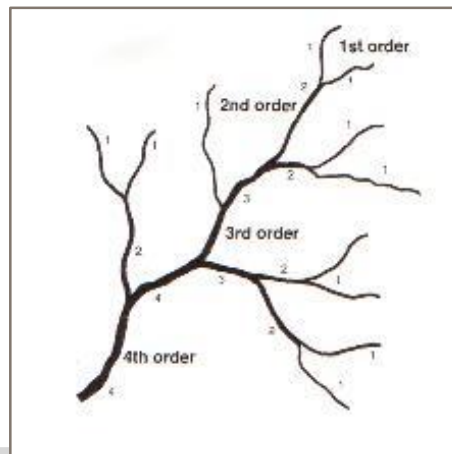


CURRENT ACREAGE LIMITS, BASED ON 300 LINEAR FOOT LIMITS

Resource type	Average stream width*	Effective acreage limit for loss of 300 linear feet of steam bed
Non-tidal wetland (special aquatic site)		0.50 acre
1st order non-tidal stream	6.3 feet	0.04 acre
2nd order non-tidal stream	8.6 feet	0.06 acre
3rd order non-tidal stream	24.8 feet	0.17 acre
4th order non-tidal stream	90.8 feet	0.50 acre ^a

* J.A. Downing et al. 2012. Global abundance and size of streams and rivers. *Inland Waters* 2:229-236.

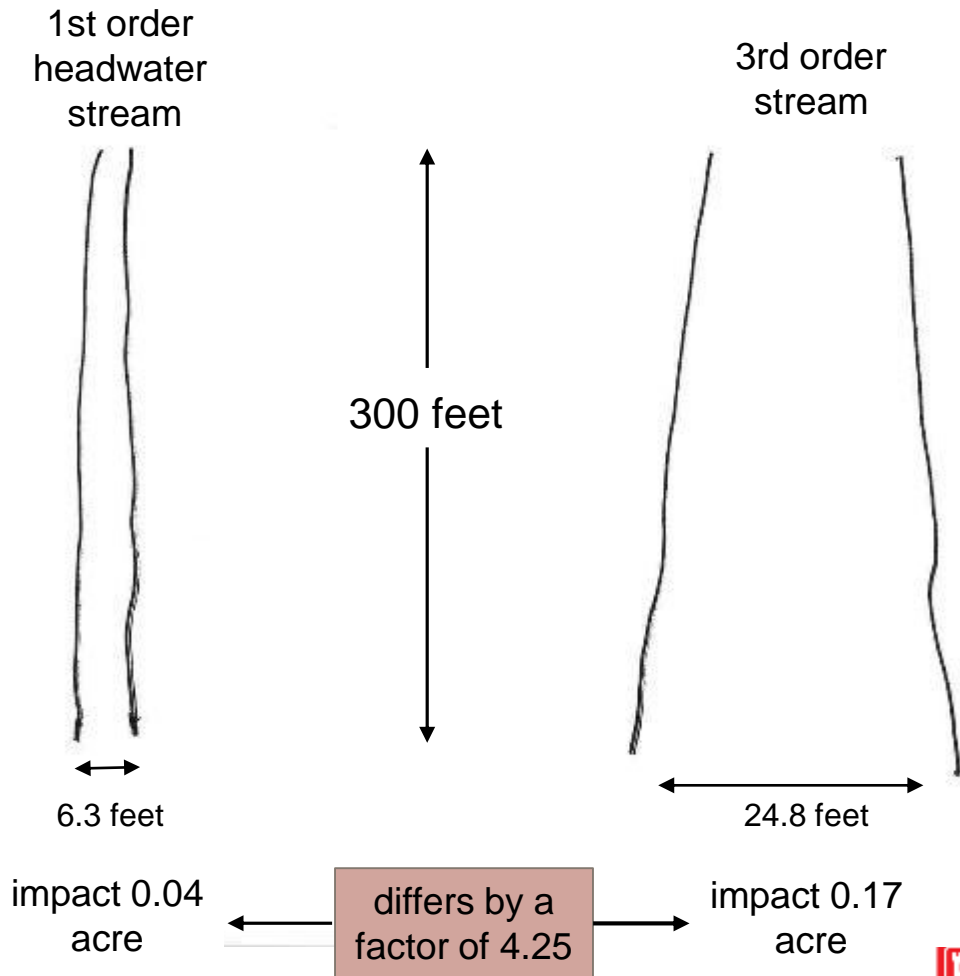
^a 0.63 acre impact over 300 linear feet



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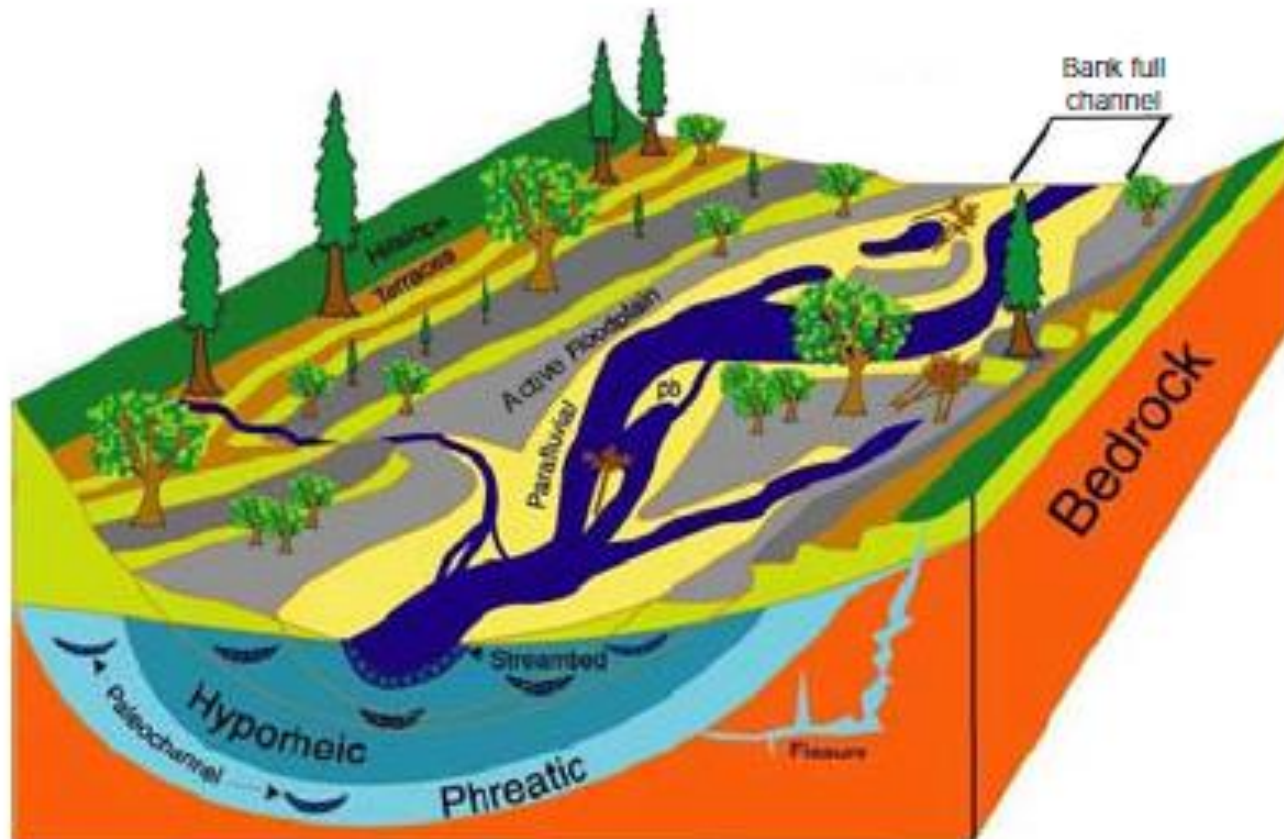
EXAMPLE OF POTENTIAL DIFFERENCE BETWEEN LINEAR FOOT AND AREA-BASED STREAM CREDITS



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THREE DIMENSIONS OF STREAM PROCESSES



Source: National Research Council. 2002. Riparian Areas: Functions and Strategies for Management



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PCN PROCESS - MINIMAL EFFECTS DETERMINATIONS

- Factors considered by district engineers (Section D, paragraph 2) during pre-construction notification review process:
 - The direct and indirect effects caused by the NWP activity
 - The cumulative adverse environmental effects caused by activities authorized by NWP
 - Environmental setting in the vicinity of the NWP activity
 - Type of resource that will be affected by the NWP activity
 - Functions provided by the aquatic resources that will be affected by the NWP activity
 - Degree or magnitude to which the aquatic resources perform those functions
 - Extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss)
 - Duration of the adverse effects (temporary or permanent)
 - Importance of the aquatic resource functions to the region (e.g., watershed or ecoregion)
 - Mitigation required by the district engineer



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INVITING COMMENT ON PROPOSED REMOVAL OF 300 LINEAR FOOT LIMIT

- Use and efficacy of other tools to ensure no more than minimal adverse environmental effects:
 - 1/2-acre limit
 - PCN review process
 - The requirements of the “mitigation” general condition (GC 23)
 - Regional conditions imposed by division engineers
 - Activity-specific conditions imposed by district engineers
 - Other tools, including regional or local tools
- Are there situations where quantifying losses of stream bed in linear feet more accurately represents the actual amount of stream bed filled or excavated as a result of an NWP activity and would result in more defensible determinations on whether a proposed NWP activity will result in no more than minimal adverse environmental effects?
 - Commenters should illustrate or explain how and under what circumstance using a linear foot measure to quantify losses of stream bed is more accurate



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INVITING COMMENT ON PROPOSED REMOVAL OF 300 LINEAR FOOT LIMIT

- Are there legal, regulatory, policy, or scientific bases for imposing different numeric limits on stream bed losses versus losses of non-tidal wetlands or other types of non-tidal waters?
 - Commenters are encouraged to provide supporting information in the form of citations to laws, regulations, and policies, and the scientific literature, because substantive information would be valuable in assisting the Corps in preparing the final NWP.
- Requesting comment on an alternative hybrid approach to establishing consistent quantitative limits for losses of stream bed (see next slide)
 - If there are only losses of stream bed, those losses would continue to be quantified in linear feet
 - Identifying the correct stream order (using Strahler (1957)) is critical
 - If there are losses of stream bed plus other non-tidal waters (e.g., wetlands), those losses would be quantified in acres



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INVITING COMMENT ON HYBRID APPROACH TO EQUIVALENT LIMITS FOR THESE NWP_s

Aquatic resource category to be impacted by proposed NWP activity	Mean stream width (feet)*	Quantitative limit (includes 1/2-acre equivalent for losses of stream bed)
Non-tidal wetlands	n/a	1/2-acre
Other non-tidal waters (e.g., lakes, ponds)	n/a	1/2-acre
1st order stream [#]	6.3 feet	3,460 linear feet
2nd order stream	8.6 feet	2,530 linear feet
3rd order stream	24.8 feet	880 linear feet
4th order stream	90.8 feet	240 linear feet
5th order stream	240 feet	90 linear feet
6th order stream	641 feet	35 linear feet
Non-tidal wetlands/waters plus stream bed	n/a	1/2-acre

* Downing et al. (2012)

Stream order using Strahler (1957) approach



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LEGISLATIVE OUTLINE FOR REBUILDING INFRASTRUCTURE IN AMERICA

- Principle C (Protecting Clean Water with Greater Efficiency)
 - 1. Eliminate Redundancy, Duplication, and Inconsistency in the Application of Clean Water Provisions
 - Authorize Federal agencies to select and use nationwide permits without additional Corps review
- In preamble of proposed rule, invite public comment on whether there is a substantive basis for having different notification requirements for federal and non-federal permittees
- Potentially affects 23 NWP's that have pre-construction notification requirements



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DISCUSSION TOPICS IN PREAMBLE – PRINCIPLE “C”

- Is there a strong supporting rationale for establishing different PCN requirements for federal versus non-federal permittees
- Federal agencies have environmental staff whose responsibility is environmental compliance for agency activities
- Non-federal permittees often hire environmental consultants to prepare their permit applications and support compliance with applicable environmental laws
- Corps has an independent responsibility to ensure that its permit actions comply with ESA, NHPA, and other applicable laws



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NWP 3, MAINTENANCE

- Propose to authorize maintenance of any currently serviceable structure or fill that did not require a permit at the time it was constructed
 - Current NWP only authorizes maintenance of previously authorized structures or fills or grandfathered structures or fills (§330.3)
- Propose to clarify that this NWP authorizes the placement of new or additional riprap to protect the structure or fill
 - Placement of riprap is the minimum necessary to protect the structure or fill or to ensure the safety of the structure or fill



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PROPOSED CHANGES TO NWP 12, UTILITY LINES

- During OMB OIRA review, received suggestion to modify NWP 12 by issuing separate NWPs for general categories of utility line sectors:
 - Oil or natural gas pipeline activities
 - Electric utility line and telecommunications activities
 - Utility line activities for water and other substances
- Concerns about recurring litigation on use of NWP 12 for oil and natural gas pipeline activities and effects on other utility line sectors
- In proposed rule:
 - Modify NWP 12 – Oil or natural gas pipeline activities
 - New NWP C – Electric utility line and telecommunications activities
 - New NWP D – Utility line activities for water and other substances
- Invite comment on national standards or best management practices for each sector to add sector-specific conditions to each NWP



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NWP 12, OIL OR NATURAL GAS PIPELINE ACTIVITIES

- 1/2-acre limit per separate and distant crossing (no change)
- Pre-construction notification required for:
 - Crossings of section 10 waters
 - Activities that result in the loss of greater than 1/10-acre of waters of the U.S.
 - Proposed oil or natural gas pipeline activity is associated with an overall project that is greater than 250 miles in length and the project purpose is to install new pipeline (vs. conduct repair or maintenance activities) along the majority of the distance of the overall project length.
 - If the proposed oil or gas pipeline is greater than 250 miles in length, the pre-construction notification must include the locations and proposed impacts for all crossings of waters of the United States that require DA authorization, including those crossings authorized by NWP would not otherwise require pre-construction notification.



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NWP 12, OIL OR NATURAL GAS PIPELINE ACTIVITIES

- Propose to remove pre-construction notification thresholds for:
 - Activities involves mechanized land clearing in a forested wetland for the utility line right-of-way
 - Utility lines in waters of the United States, excluding overhead lines, exceeds 500 feet
 - Utility lines placed within a jurisdictional area (i.e., water of the United States), and it runs parallel to or along a stream bed that is within that jurisdictional area
 - Permanent access roads are constructed above grade in waters of the United States for a distance of more than 500 feet
 - Permanent access roads are constructed in waters of the United States with impervious materials.



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PROPOSED NEW UTILITY LINE NATIONWIDE PERMITS

- NWP C, Electric utility line and telecommunications activities (e.g., electricity, internet)
 - 1/2-acre limit per separate and distant crossing
 - Pre-construction notification required for:
 - Crossings of section 10 waters
 - Activities that result in the loss of greater than 1/10-acre of waters of the United States
- NWP D, Utility lines for water and other substances (e.g., potable water, wastewater, sewage, stormwater)
 - 1/2-acre limit per separate and distant crossing
 - Pre-construction notification required for:
 - Crossings of section 10 waters
 - Activities that result in the loss of greater than 1/10-acre of waters of the United States



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NWPs AUTHORIZING COAL MINING ACTIVITIES

- NWP 21, Surface coal mining activities
- NWP 49, Coal re-mining activities
- NWP 50, Underground coal mining activities

- Propose to remove references to integrated permit processing procedure by the Department of the Interior, Office of Surface Mining Reclamation and Enforcement
 - These procedures have never been developed
- Propose to remove requirement for written verification issued by district engineer before proceeding with authorized work
 - Consistency with other NWPs with a 1/2-acre limit and PCN requirement



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NWP 27, AQUATIC HABITAT RESTORATION, ENHANCEMENT, AND ESTABLISHMENT ACTIVITIES

- Add to examples of authorized activities:
 - Coral restoration or relocation activities
 - Releases of sediment from reservoirs to restore downstream habitat
- Add to the list of authorized activities that do not require pre-construction notification:
 - Activities conducted in accordance with the terms and conditions of a binding coral restoration or relocation agreement between the project proponent and the NMFS or any of its designated state cooperating agencies



Photo credit: venturariver.org



Photo credit: marinesavers.com



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PROPOSED NEW NATIONWIDE PERMITS FOR MARICULTURE ACTIVITIES

- Propose two new NWPs as directed by E.O. 13921, “Promoting American Seafood Competitiveness and Economic Growth”
 - NWP A – Seaweed Mariculture Activities
 - NWP B – Finfish Mariculture Activities
- Invite comment on whether to issue a separate NWP for integrated multi-trophic mariculture systems
 - e.g., shellfish with seaweed or finfish
- Authorize structures in coastal waters and federal waters over the outer continental shelf
 - Section 4(f) of the Outer Continental Shelf Lands Act extends Corps’ section 10 permitting authority to artificial islands, installations, and other devices on the seabed, to the seaward limit of the outer continental shelf



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NWP 48, COMMERCIAL SHELLFISH MARICULTURE ACTIVITIES

- In response to adverse decision issued on 10 October 2019 by Western District Court of Washington, propose to reissue NWP 48 with modifications
- Revise national decision documents to address issues identified in the Western District Court of Washington's opinion
- Proposed modifications:
 - Remove 1/2-acre limit for activities that directly affect submerged aquatic vegetation in areas that have not been used during the past 100 years
 - These activities often have temporary impacts on submerged aquatic vegetation
 - Remove definition of "new commercial shellfish aquaculture operation"
 - An operation in a project area where commercial shellfish aquaculture activities have not been conducted during the past 100 years
 - Remove pre-construction notification requirement
 - General condition 18, Endangered Species Act compliance, will often trigger PCN requirement



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NEW NWP E, WATER RECLAMATION AND REUSE FACILITIES

- Invite comment on whether to issue a new NWP to authorize discharges of dredged or fill material into waters of the U.S. to construct, expand, or maintain water reclamation and reuse facilities
- These facilities may be authorized by the following NWPs:
 - NWP 29, Residential developments
 - NWP 39, Commercial and institutional developments
 - NWP 40, Agricultural activities
 - NWP 42, Recreational facilities
 - NWPs that authorize utility line activities (i.e., NWPs 12, C, and D) for utility lines to support these facilities
- Will a separate, new NWP provide clarity to public?



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PROPOSED CHANGES TO GENERAL CONDITIONS

GC 13, Removal of temporary fills

- Add “structures” to require removal of temporary structures

GC 17, Tribal rights

- Restore text of general condition that was in 2012 and prior NWP's

GC 18, Endangered species

- Remove definitions of “direct effects” and “indirect effects” and replace with references to the 2019 FWS and NMFS regulations defining:
 - “effects of the action” [50 CFR 402.02]
 - “activities that are reasonably certain to occur” [50 CFR 402.17(a)]
 - “consequences caused by the proposed action” [50 CFR 402.17(b)]



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PROPOSED CHANGES TO GENERAL CONDITIONS

GC 23, Mitigation

- Paragraph (d): Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 1/10-acre and require pre-construction notification, unless the district engineer provides an activity-specific waiver of this requirement.
 - District engineer may require other forms of mitigation (e.g., riparian areas in paragraph (e))
 - Mitigation requirement may be satisfied through restoration or enhancement of riparian areas next to streams



Consistency with wetland mitigation requirement for NWP (paragraph (c))



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PROPOSED CHANGES TO GENERAL CONDITIONS

GC 25, Water quality

- Revise for consistency with EPA's new WQC regulation (40 CFR part 121)
- If project proponent cannot comply with all conditions for the WQC issued by certifying authority for issuance of the NWP, then he or she must obtain a WQC or waiver for the proposed discharge

GC 26, Coastal Zone Management

- Revise for consistency with NOAA's CZMA regulations (15 CFR 930.31)
- If project proponent cannot comply with all conditions for the CZMA consistency determination issued by the state for issuance of the NWP, then he or she must obtain a consistency concurrence or presumption of concurrence for the proposed NWP activity



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PROPOSED CHANGES TO GENERAL CONDITIONS

GC 28, Use of multiple nationwide permits

- If only one of the NWP's used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit.
- If one or more of the NWP's used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWP's cannot exceed their respective specified acreage limits.



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PROPOSED CHANGES TO GENERAL CONDITIONS

GC 32, Pre-construction notification

- For linear projects, clarify that:
 - For linear projects where one or more single and complete crossings require pre-construction notification, the quantity of anticipated losses of wetlands and waters included in the PCN will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.
- The NWP PCN form (Form ENG 6082) should be used for NWP PCNs
- Remove the agency coordination provision for PCNs requesting waivers of the 300 linear foot limit for losses of stream bed



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PROPOSED CHANGES TO NWP DEFINITIONS

- Remove definitions of:
 - Ephemeral stream
 - Intermittent stream
 - Protected tribal resources
- Modify definitions of “ordinary high water mark” and “perennial stream” to be consistent with definitions in 2020 final rule defining “waters of the United States”
- Modify definition of “loss of waters of the United States” to remove references to quantifying stream bed losses in linear feet



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WATER QUALITY CERTIFICATION PROCESS

- EPA's new WQC regulations at 40 CFR part 121
 - Effective date September 11, 2020
- Pre-filing meeting request
 - At least 30 days prior to submitting certification request
 - Pre-filing meeting requests by Corps districts sent to certifying authorities on or after September 11, 2020
- Districts send certification requests to certifying authorities
 - Timing contingent on outcomes of pre-filing meeting requests
 - Satisfy information requirements in 40 CFR 121.5(c)
 - 60-day reasonable period of time for certifying authority to act on certification request for proposed issuance of NWP that may result in a discharge into waters of the United States



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WATER QUALITY CERTIFICATION PROCESS

- After the certifying agencies issue their WQCs for the proposed NHPs, districts will send letters to the EPA Administrator to give EPA the opportunity to take action if it determines proposed discharges may affect the waters of a neighboring jurisdiction
 - Section 401(a)(2) of the CWA
 - New process at 40 CFR 121.12
 - EPA Administrator has 30 days to make a decision
 - This process does not apply if the certifying authority denies or waives WQC for the issuance of the NHPs
- WQC processes for issuance of NHPs must be completed before final NHPs are issued
 - Decisions by certifying agencies (issue, waive, or deny WQC)
 - Review of certifications by EPA Administrator



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CZMA CONSISTENCY DETERMINATION PROCESS

- After proposed NWP's published in Federal Register, coastal districts will send letters to states with consistency determinations and requesting concurrence
- If appropriate, district letter should provide conditions based on specific enforceable coastal zone management policies that would allow the state agency to concur with the Corps district's consistency determination
- The state agency will have at least 90 days to review the Corps district's consistency determination for the proposed NWP's unless the state agency and Corps agree to an alternative notification schedule (see 15 CFR 930.36(b))
- CZMA consistency processes for issuance of NWP's must be completed before final NWP's are issued



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CORPS' REGIONAL CONDITION PROCESS

- Division engineers have authority to add regional conditions to NWPs to ensure no more than minimal adverse environmental effects
 - Division engineers should approve only those regional conditions that are necessary to ensure no more than minimal adverse environmental effects in the region
 - Minimize number of regional conditions to comply with goal of NWP program:
 - “regulate with little, if any, delay or paperwork certain activities having minimal impacts” [33 CFR 330.1(b)]
- Division engineers can also approve regional conditions (e.g., adding PCN requirements) that are necessary to ensure NWP activities comply with other laws and requirements, such as:
 - Endangered Species Act
 - Corps' tribal trust responsibilities
 - National Historic Preservation Act
 - Essential Fish Habitat

CORPS' REGIONAL CONDITION PROCESS

- After proposed rule is published in the *Federal Register*, district will issue public notices to announce the proposed NWP and solicit comment on proposed regional conditions
- District public notices should be issued within 15 days of *Federal Register* publication
- In response to concerns raised to OMB during the review process, and comments received on Regulation Reform, copies of all district PNs will be posted in the www.regulations.gov docket (COE-2020-0002) under “Supporting and Related Material”
 - See Section H of proposed rule preamble for detailed discussion
 - Numerous requests for a central location where NGOs, national consulting firms, and other interested parties can readily find copies of district public notices for proposed and final regional conditions
 - *Federal Register* notice states that comments on proposed regional conditions are to be sent to the appropriate Corps district



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CORPS' REGIONAL CONDITIONING PROCESS

- After the final NWP's are issued, Corps districts will develop their final regional conditions
- Corps districts will prepare supplemental documents to seek Corps division approval of regional conditions
- Supplemental documents:
 - Summarize comments received in response to district public notice on proposed regional conditions, with responses to comments
 - Provide certification by Corps division engineer that use of the NWP in the region (e.g., a Corps district), with approved regional conditions, will authorize only those activities that have no more than minimal individual and cumulative adverse environmental effects
- Districts will issue public notices announcing final regional conditions
 - These public notices will also include the final WQCs and CZMA consistency concurrences for the issuance of the NWP's



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TRANSITIONING TO 2020 NATIONWIDE PERMITS

- Current NWP expire March 18, 2022
 - This date may change, depending on when the 2020 NWPs are issued and go into effect
- Grandfathering provision at 33 CFR 330.6(b)
 - If the activity qualifies for authorization under the reissued or modified 2020 NWP, the original NWP verification letter will continue to be valid under March 18, 2022, unless the district engineer identified a different expiration date in that verification letter
 - If the activity no longer qualifies for NWP authorization under the reissued or modified 2020 NWP, the project proponent would have 12 months to complete the authorized activity as long as that activity is under construction or under contract to commence construction before the reissued or modified NWP goes into effect



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QUESTIONS?



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